
SUBSTITUTE SENATE BILL 5533

State of Washington

58th Legislature

2003 Regular Session

By Senate Committee on Education (originally sponsored by Senators Kohl-Welles, Johnson, McAuliffe, Carlson, Keiser, Rasmussen and Kline)

READ FIRST TIME 03/05/03.

1 AN ACT Relating to the hiring of school district employees; adding
2 a new section to chapter 28A.400 RCW; creating a new section; and
3 prescribing penalties.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

5 NEW SECTION. **Sec. 1.** The legislature recognizes that state law
6 requires criminal background checks of applicants for school district
7 employment. However, the legislature finds that, because they
8 generally are limited to criminal conviction histories, results of
9 background checks are more complete when supplemented by an applicant's
10 history of past sexual misconduct. Therefore, the legislature finds
11 that additional safeguards are necessary in the hiring of school
12 district employees to ensure the safety of Washington's school
13 children. In order to provide the safest educational environment for
14 children, school districts must provide known information regarding
15 employees' sexual misconduct when those employees attempt to transfer
16 to different school districts.

17 NEW SECTION. **Sec. 2.** A new section is added to chapter 28A.400
18 RCW to read as follows:

1 (1) The definitions in this subsection apply throughout this
2 section unless the context clearly requires otherwise.

3 (a) "Applicant" means an applicant for employment in a certificated
4 or classified position who is currently or was previously employed by
5 a school district.

6 (b) "Employer" means a school district employer.

7 (2) Before hiring an applicant, a school district shall request the
8 applicant to sign a statement:

9 (a) Authorizing the applicant's current employer, or, if the
10 applicant is not currently employed by a school district, the
11 applicant's immediately previous employer, to disclose to the hiring
12 school district sexual misconduct, if any, by the applicant and making
13 available to the hiring school district copies of all documents in the
14 applicant's personnel record maintained by that employer relating to
15 that sexual misconduct; and

16 (b) Releasing the applicant's current employer or, if the applicant
17 is not currently employed by a school district, the applicant's
18 immediately previous employer, and employees acting on behalf of that
19 employer, from any liability for providing information described in (a)
20 of this subsection, as provided in subsection (4) of this section.

21 (3) Before hiring an applicant, a school district shall request in
22 writing, electronic or otherwise, at least the applicant's current
23 employer or, if the applicant is not currently employed by a school
24 district, the applicant's immediately previous employer, to provide the
25 information described in subsection (2)(a) of this section, if any.
26 The request shall include a copy of the statement signed by the
27 applicant under subsection (2) of this section.

28 (4) Not later than twenty business days after receiving a request
29 under subsection (3) of this section, a school district shall provide
30 the information requested and make available to the requesting school
31 district copies of all documents in the applicant's personnel record
32 relating to the sexual misconduct. The school district, or an employee
33 acting on behalf of the school district, who in good faith discloses
34 information under this section is immune from civil liability for the
35 disclosure.

36 (5) A hiring district shall request from the office of the
37 superintendent of public instruction verification of certification

1 status, including information relating to sexual misconduct, if any,
2 for applicants for certificated employment.

3 (6) A school district shall not hire an applicant who does not sign
4 the statement described in subsection (2) of this section.

5 (7) School districts may employ applicants on a conditional basis
6 pending the district's review of information obtained under this
7 section.

8 (8) Information received under this section shall be used by a
9 school district only for the purpose of evaluating an applicant's
10 qualifications for employment in the position for which he or she has
11 applied. Except as otherwise provided by law, a board member or
12 employee of a school district shall not disclose the information to any
13 person, other than the applicant, who is not directly involved in the
14 process of evaluating the applicant's qualifications for employment.
15 A person who violates this subsection is guilty of a misdemeanor.

16 (9) Beginning September 1, 2003, the board or an official of a
17 school district shall not enter into a collective bargaining agreement,
18 individual employment contract, resignation agreement, severance
19 agreement, or any other contract or agreement that has the effect of
20 suppressing information about sexual misconduct of a present or former
21 employee or of expunging information about that sexual misconduct from
22 personnel records. Any provision of a contract or agreement that is
23 contrary to this subsection is void and unenforceable, and may not be
24 withheld from disclosure by the entry of any administrative or court
25 order. This subsection does not restrict the expungement from a
26 personnel file of information about alleged sexual misconduct that has
27 not been substantiated.

28 (10) This section does not prevent a school district from
29 requesting or requiring an applicant to provide information other than
30 that described in this section.

31 (11) By September 1, 2003, the state board of education has the
32 authority to and shall adopt rules defining "sexual misconduct" as used
33 in this section for application to all classified and certificated
34 employees. The definition of sexual misconduct adopted by the state
35 board of education must include the requirement that the school
36 district has made a determination that there is sufficient information
37 to conclude that the misconduct occurred and that the misconduct

1 resulted in the employee's leaving his or her position at the school
2 district.

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